

2002-2006
**LABORERS'
MASTER AGREEMENT**

Between

**ASSOCIATED GENERAL CONTRACTORS
OF
CALIFORNIA, INC.**



And
**NORTHERN CALIFORNIA
DISTRICT COUNCIL OF
LABORERS**

Affiliated with

**LABORERS' INTERNATIONAL UNION
OF NORTH AMERICA
AFL-CIO**

EXHIBIT A-1

(Part 1 of 3)

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**LABORERS' MASTER AGREEMENT
2002-2006**

THIS AGREEMENT, made and entered into this 22nd day of October 2001, and effective the 24th day of June, 2002, by and between the ASSOCIATED GENERAL CONTRACTORS OF CALIFORNIA, INC., herein after referred to as COLLECTIVE BARGAINING REPRESENTATIVE OF EMPLOYER, and the NORTHERN CALIFORNIA DISTRICT COUNCIL OF LABORERS OF THE LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO, hereinafter referred to as UNION, modifying, amending and changing the Agreement made and entered into the 17th day of May, 1951, as modified by the Agreements dated June 4, 1952; July 14, 1953; April 13, 1954; April 12, 1955; April 30, 1956; April 19, 1957; June 30, 1959; July 28, 1961; June 27, 1962; July 1, 1965; June 16, 1968; June 16, 1971; July 2, 1974; May 10, 1977; April 30, 1980, January 18, 1983, March 5, 1986, November 21, 1988, May 17, 1992 and June 14, 1996, by and between the ASSOCIATED GENERAL CONTRACTORS OF CALIFORNIA, INC. and the NORTHERN CALIFORNIA DISTRICT COUNCIL OF LABORERS of the LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO.

WITNESSETH:

Section 1 - General Provisions

A. Definitions

(1) The term "Employer" shall refer to the Associated General Contractors of California, Inc.

(2) The term "Union" shall refer to the Northern California District Council of Laborers.

(3) This Agreement shall apply to any employee who performs work falling within the presently recognized jurisdiction of those Local Unions of the Laborers' International Union of North America affiliated with the Northern California District Council of Laborers; except that this Agreement shall not apply to superintendents, assistant superintendents, general foremen, civil engineers and their helpers, timekeepers, messenger persons, confidential employees and office help.

(4) This Agreement shall apply to Northern California, which term means that portion of the State of California above the Northerly boundary of Kern County, the Northerly boundary of San Luis Obispo County, and the Westerly boundaries of Inyo and Mono Counties, which includes the following counties: Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modo, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba.

**B. Coverage and Description of Laborers' Work
Covered by this Agreement**

(1) This Agreement shall cover all work coming within the recognized jurisdiction of the Laborers' International Union of North America.

(2) Subject to the preceding paragraph and subject also to the provisions of Section 14 of this Agreement, it is agreed that Laborers' work shall include but not be limited to: All Laborers' work necessary to tend the carpenters and other building trades craftsmen, stripping of concrete forms, handling and raising of slip forms, sewer cleaners, gardening, horticulture, land-scaping, trackmen (construction, maintenance, repair), all cleanup of debris, grounds and buildings, steam cleaning and all General Laborers' work. In accordance with Green Book Decision dated August 2, 1920 – December 11, 1924, the loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete construction shall be done by Laborers under the supervision of such person as the Employer may designate. The hoisting of rods shall be done by Laborers, except when a derrick or outrigger operated by other than hand power is used.

All Laborers' work in connection with excavation for building and all other construction, including digging of trenches, piers, foundations and holes; digging, lagging, sheeting, cribbing and bracing of foundations, holes, caissons and cofferdams, manning, setting and moving all manually movable pumps. (This does not restrict the Laborers from performing other work.)

All Laborers' work in connection with concrete work, including chipping and grinding, sandblasting, mixing, handling, shoveling, conveying, pouring, concrete pumps and similar type machines, grout pumps, nozzle men (including gunmen and potmen), vibrating, guniting and otherwise applying concrete, whether done by hand or any other process, and wrecking, stripping, dismantling and handling concrete forms

and false work, including tending of plasterers and brick and block layers.

All Laborers' work in the excavation, grading preparation concreting, asphalt and mastic paving, paving ramming, curbing, flagging and laying of other stone materials, and surfacing of streets, ways, courts, underpasses, overpasses and bridges.

All work in connection with the operation of spreader boxes, such as True-Lay, Rola Pavers and Laytons or similar type models, including but not limited to all shoveling and shifting material and cleaning of boxes, shall be the work of the Laborers. All Laborers' work in connection with the cutting of streets and ways for all purposes, including aligning by any method, digging of trenches, manholes, etc., handling and conveying of all materials for same; concreting of same; and the backfilling, grading and resurfacing of same. All Laborers' work in connection with the construction of caissons, cofferdams, subways (except as covered by Mast Tunnel Agreement), aqueducts, water lines, culverts, flow controls, airports, drains and sewers, and any type of conduit or joint pipe, including the cribbing, lagging, bracing, sheeting, checking grade for pipe laying, trench jacking and handling of lagging hammers on all open trenches and ditches. All Laborers' work in connection with shoring, underpinning, including cutting, fitting, placing and raising of all structures.

All Laborers' work in connection with drilling, all work of loading, placing and blasting of all powder and explosives of whatever type regardless of the method used for such loading and placing.

All signaling and rigging in connection with Laborers' work.

All Laborers' work in connection with the wrecking

of buildings and other structures.

All Laborers' work in connection with the slinging, handling and placing of all rip-rap, rock and stone on highways, jetties, retaining walls or wherever used.

All wrecking work on construction and/or razing sites; all Laborers' work on pre-casting or prefabrication at the construction project site or at a precast or prefabrication yard specifically established and operated for that one particular construction job.

All work in connection with the operation of such equipment that is necessary and incidental to carry out the work of the Laborer.

(3) All classifications listed in Supplement No. 1 of this Agreement which are not listed under this Section shall be included in the coverage and description of Laborers' work just as though incorporated in full in this Section.

(4) Should an Individual Employer signatory to this Agreement subcontract the masonry or plastering portion of a project, said contract shall specify that the work to be performed shall be done under the terms and conditions of the current Masonry and/or Plaster Tender Agreement that has been negotiated by the Northern California District Council of Laborers or its affiliates, which is in effect in the territory in which the work is performed. However, Masonry work which is incidental to the work of the Individual Employer may be performed under the terms and conditions of this Agreement.

(5) Any Employer not signatory to both the Tunnel and Laborers' Master Agreement shall agree that whenever work is performed which is covered by the terms of the Laborers' Master Tunnel Agreement for the 46 Northern California Counties, the provisions of that

Agreement shall be fully applicable to and binding upon the Individual Employer.

Section 2 - Bargaining Representatives

A. Union's Recognition of Collective Bargaining Representative of Employer

The Union hereby recognizes and acknowledges that the Collective Bargaining Representative of Employer includes its membership a majority of the Individual Employers in the highway, general building and heavy construction industry and said Individual Employers are performing the greater percentage of work therein. By reason of such facts the Union hereby recognizes that the Collective Bargaining Representative of the Employer, as herein-above referred to, is the collective bargaining representative for all Individual Employers who authorize the Employer to represent them with respect to Collective Bargaining with the Northern California District Council of Laborers. A list of said Individual Employers shall be furnished to the Union at the commencement of negotiations and the Employer shall furnish the Union with complete monthly report of any additions and deletions to the list of Individual Employers represented by the Employer.

In the event the Union (District Council) enters into another agreement with other employers or employer associations concerning the type of work covered herein in the area which shall have terms more favorable than such employers or employer associations and the members thereof than this Agreement, then such more favorable provisions shall become a part of and apply to this Agreement only in the geographical area where such other agreement is in effect.

B. Employers' Recognition of Union as Collective Bargaining Representative of Employees

The Employer and the Individual Employers covered hereby recognize and acknowledge the Northern California District Council of Laborers of the Laborers' International Union of North America, AFL-CIO as the collective bargaining representative for the employees in the area aforementioned covering the jurisdiction of the Union.

C. Access to Project

A Union Representative shall have access to the project during working hours for the purpose of checking the manner of compliance with which the terms of this Agreement are being complied.

Section 3 – Employment and Discharge

A. Union Security

(1) Every person performing work covered by this Agreement who is a member of the Union and in the employment of an Individual Employer on work covered by this Agreement on the effective date of this Subsection 3A shall, as a condition of employment or continued employment, remain a member in good standing of the Union in the appropriate Local Union of the Union. Every person covered by this Agreement and employed to perform work covered by this Agreement shall be required, as a condition of employment, to apply for and become a member of and to maintain membership in good standing in the Union in the appropriate Local Union of the Union which has territorial jurisdiction of the area in which such person

is performing work on or after the expiration of eight (8) days of employment on such work following the beginning of such employment on the effective date of this revised Subsection 3A, whichever is later. Membership in any such Local Union shall be available to any such person on the same terms and conditions generally applicable to other members.

If Federal law is hereafter amended to permit a lesser requirement for Union membership or Union membership as a condition of employment than provided in this Subsection, the Collective Bargaining Representative of the Employer and the Union will promptly enter into negotiations with regard to such subject.

(2) The Individual Employer shall be required to discharge any employee pursuant to this Subsection 3A only when a written notice from the Union or Local Union, with an immediate copy of such notice to the Union of such employee's non-compliance with this Subsection stating all pertinent facts showing such noncompliance, shall have been served upon such Individual Employer and a reasonable time (not to exceed 48 hours) has been allowed for compliance therewith.

B. Employment

(1) The Union or Local Union shall maintain open and non-discriminatory hiring halls for the use of workmen desiring employment on work covered by this Agreement and such workmen shall be entitled to use such hiring halls. It is mutually agreed by the Employer and the Union to fully comply with all of the provisions of Title 7 of the Civil Rights Act of 1964, Presidential Executive

Order #11246, the Americans with Disabilities Act of 1990, and the California Fair Employment Practices Section, to the end that no person shall, on the grounds of sex, race, color, disability, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination by not having full access to the contents of Section 3 of this Agreement. (A list of Local Unions, their telephone numbers and daily dispatching hours is attached hereto as "Schedule A" for convenience only.)

The Union shall retain full power to change the location of any hiring hall listed herein, to change the daily dispatching hours listed herein or to cause the merger, amalgamation or consolidation of any two or more hiring halls listed herein. The Union shall give notice in writing to the Employer whenever any such change, merger, amalgamation or consolidation becomes effective. If the Employer desires a location of a hiring hall or daily dispatching hours other than as specified herein, notice of such desire shall be given to the Union in writing and the Collective Bargaining Representative shall promptly enter into negotiations with regard to such subject.

(2) Each person desiring employment shall register through such hiring hall by appearing personally and by indicating his/her name, address, telephone number, Social Security Account Number, qualifications and employment desired. Each such person shall be listed numerically in the order in which he/she registers.

In the territorial jurisdiction of the following Locals only 73 Stockton, 139 Santa Rosa, 185 Sacramento, 270 San Jose, 291 (Napa/Lake Counties only), 294 Fresno, 297 Salinas, 324 Martinez, 326 Solano and 1130 Modesto, a person may register by phone if his residence is more than 10 miles from the nearest hiring hall maintained by said Local.

Distance for interpreting this Subsection shall be determined by using the nearest Class "A" road or highway.

(3) No person shall be entitled to have his name placed on any employment list which is applicable to a particular type or classification of work unless he/she has been employed in such type or classification of work for six months consecutively or accumulatively within a period of three (3) years immediately preceding the date of his/her registration.

(4) The Individual Employer shall contact the appropriate hiring hall of the local Union having work and area jurisdiction for all Laborers as he/she or it may from time to time need, and the Local Union shall furnish to the Individual Employer the required number of qualified and competent Laborers of the classifications needed by the Individual Employer in accordance with the provisions of this Subsection 3B, if such Laborers are available.

(5) When requesting Laborers, the Individual Employer shall submit job orders indicating the number of persons desired, qualifications of each person desired, the location of the job, the reporting date and time and the representative of the Individual Employer to be contacted on the job site.

(6) The appropriate hiring hall of the Local Union of the Union having work and area jurisdiction will furnish in accordance with the request of the Individual Employer such qualified and competent Laborers of the classifications needed from among those entered on said lists to the Individual Employer by use of a written referral in the following order of preference:

Persons shall be referred in the order in which they are registered if their registration indicates that they are qualified for

and desirous of taking such referral, unless they are not available for referral, subject to the following conditions: First,

(a) Notwithstanding any other provision of this Agreement, the Individual Employer may request a person by name, out of order, and such person must be dispatched if such person is registered on the out-of-work list and if such person was employed previously by such Individual Employer or member of a joint venture within three years prior to such request within the territorial jurisdiction of the appropriate Local Union of the Union.

(b) In addition to requests permitted by the provision of Subsection 6(a), the Individual Employer may request any person registered on the out-of-work list out of order for any reasons; provided, however, that at no time shall any job contain more than 50% of persons requested under Subsection 6(b). It will not be a violation of this Agreement for an owner (1 person) to perform Laborers' work when needed, provided that said owner is performing work with at least one (1) additional Laborer on the job site.

(c) Any Local Union, may at its option, permit a percentage of individual requests greater than 50% on any job. Such permission shall not be deemed a violation of this Agreement.

(d) Notwithstanding the above, the mobility of all employees who have been employees of the Individual Employer for a period of three hundred sixty (360) hours out of the immediate preceding six (6) months, shall not be restricted for any reason subject to Subsection 3A, Union Security. In order for the Individual Employer to exercise the mobility provisions set forth in this paragraph, the Individual Employer shall:

(1) Provide the appropriate Local Union with a current list

of names and Social Security Numbers of those employees who are eligible for mobility, prior to any employee being moved; and

(2) The Individual Employer shall notify the appropriate Local Union of a job or project of more than five day's duration.

(3) In cases where an individual employer is found to have dispatched certain employees not eligible for mobility to a job site as defined herein, then the local Union having jurisdiction in the project area shall notify the employer of such violation or error. The employer, upon notification by the Union, shall within one (1) working day, correct said violation or error to the satisfaction of the Union. Additional laborers shall be obtained in accordance with the hiring hall procedures from the Local Union in the area where work is performed. All laborers shall have in their possession proof of proper dispatch and Union status which shall be produced upon request of Local Union representative in the area where the job is located. Any violation not resolved to the mutual satisfaction of the parties shall be subject to Section 9 of this Agreement.

(4) No Employee of the employer shall suffer loss of mobility for a break in service of two (2) months or less with the employer if the break in service is due to illness, extended vacation or winter shutdown.

(e) No person shall be dispatched pursuant to the provisions of Subsection 6(a), 6(b) or 6(c) of this Section unless the Individual Employer's request is in writing, dated, is signed by an appropriate management representative, specifies whether the person is a rehire and names the job for which rehire is requested.

Second, persons who, within five (5) years immediately preceding the job order, performed work covered under this Agreement in the geographical area covered by this Agreement in the order in which they registered.

Third, persons who are registered in the order in which they registered by qualification.

(7) Available for employment shall mean: All persons eligible for referral shall be present at the hiring hall or present at their residence phone if they live at a location specified in Subsection (2) of this Subsection 3B during dispatching hours, unless excused for the following reasons:

(a) When a death or imminent death occurs in the immediate family, from the date of death and not exceeding one week after the date of burial, however, they shall produce bona fide proof of such death or imminent death from hospital or family doctor.

(b) Persons on jury duty, providing they produce bona fide proof that they are serving on a jury.

(c) Persons temporarily serving in the U.S. Military Reserve, providing they show bona fide proof of such service.

(d) Attendance at Workers' Compensation Hearing or any administrative or court appearance.

(8) When ordering workers, the Individual Employer will give notice to the appropriate hiring hall of the Local Union, if possible, not later than 2:30 p.m. of the day prior (Monday through Friday) or, in any event, not less than seventeen and one-half (17-1/2) hours, if possible, before the required reporting time. In the event that forty-eight (48) consecutive hours after such notice (Saturday, Sundays and recognized holidays excluded), the Local Union shall not furnish such

workers, the Individual Employer may procure workers from any other source, or sources. If workers are so employed, the Individual Employer shall promptly report to the appropriate hiring hall of the Local Union, in writing or by phone with written confirmation within fortyeight (48) hours, the name, address and Social Security Account Number of the employee procured from such other source or sources and the date of employment and the location of the job on which he/she is employed. Workers who report on the first day are to be paid from the time they report to the Individual Employer's designated location.

(9) Dispatching hours shall be as specified in sub-division (1) of this Subsection 3B or as specified in the notice or notices submitted pursuant to subdivision (1) of this Subsection 3B. In emergency cases, individuals may be dispatched other than at such dispatching hours.

(10) Each person, upon being referred, shall receive a written referral to be transmitted to the Employee representative at the job site indicating the name, address, Social Security Account Number, type of job, date of proposed employment and date of referral.

(11) To insure the maintenance of a current registration list all persons who do not re-register or answer roll call, as the case may be, on each regularly scheduled roll call day (which shall not be more often than once a week) shall be removed from the registration list unless excused in accordance with Subsection 3B(7). Any person may reregister by phone and must be personally present at the phone during dispatch hours. If a referral is made by phone, a written dispatch slip must be sent to the Individual Employer and worker. Any person who is permitted to register by telephone under this Subsection 3B must appear

personally at the appropriate hiring hall on roll call day. If such persons re-register or answer roll call pursuant to the provisions of this Section, they shall maintain their previous position on such list, subject to the provisions of Subsection 12 of Subsection 3B following, such person shall not be entitled to the position he/she held prior to his elimination in the event he/she re-registers or answers roll call, as the case may be. Persons will be excused from answering roll call only for the reason enumerated in Subsection 3B(7).

(12) Persons shall be eliminated from the registration list for the following reasons:

(a) Dispatched to a job - except that any person who is rejected by the Individual Employer or who fails to complete two (2) full days of work shall retain his/her position on said list; provided, no person who is rejected by the Individual Employer shall be referred to such Individual Employer with respect to the same request pursuant to which he/she was initially referred.

(b) Failing to accept suitable employment one time during the current week at the time of dispatch. Employment which cannot be reached by an individual because of lack of transportation shall not be deemed suitable as to him/her.

(c) Unavailable for employment.

(d) Any person dispatched to a job who fails to report for work.

(13) Notwithstanding the provisions of this Subsection 3B, upon the same notice as required in Subsection 3B(6)(e) being given to the appropriate Local Union of the Union, an Individual Employer shall have complete freedom to employ the first key Laborer.

(14) Subject to the provisions of this Agreement, the Individual Employer shall have complete freedom of

selectivity in hiring and the Individual Employer retains the right to reject any job applicant referred by the Union for just cause including but not limited to persons unable to produce legal residence documentation as required under the Immigration Reform and Control Act of 1986. In the event an Individual Employer receives two (2) referrals from the Local Union not meeting the skill requirements of the hiring request, the Individual Employer shall be free to secure such skilled person from any available source subject to Subsection 3A of this Agreement.

(15) The Local Unions and the Union shall post in places where notices to applicants for employment with the Individual Employers are customarily posted, all provisions relating to the functioning of the hiring arrangements, including the provisions set forth in this Section, and each Individual Employer shall similarly post in places where notices to employees and applicants for employment are customarily posted, a notice of the hiring arrangements set forth in this Section.

(16) Selection of applicants for referral to jobs pursuant to this Agreement shall be on a non-discriminatory basis and shall not be based on, or in any way affected by, Union membership, bylaws, rules, regulations, constitutional provisions, or any other aspect or obligation of Union membership, policies or requirements, provided that the provisions hereof shall not modify or qualify the requirements of Subsection A of this Section 3.

(17) Any person aggrieved by the operation of the hiring hall shall submit his/her grievance to the permanent hiring hall neutral arbitrator provided that such submission is made in writing stating the reasons for the grievance within

ten (10) working days after the occurrence of the grievance. The Arbitrator shall have full power to adjust the grievance, and his decision thereon shall be final and binding upon the person submitting the grievance and all parties here-to. Forms for the submission of any such grievance shall be available at all times in the office of the Union and each Local Union.

The permanent hiring hall neutral arbitrator shall be Gerald R. McKay and notices required by this Section shall be mailed or delivered to P.O. Box 406, Burlingame, CA 94011-0406. The date of this postmark and/or date of delivery of the grievance, whichever is later, shall toll the running of the ten (10) day period. The costs of arbitration shall be borne equally by the Employer and the Local Union regardless of who the Local Union or Individual Employer is.

C. Discharge

No employee shall be discharged or discriminated against for activity in or representation of the Union or any Local Union. The Local Union shall be the sole judge of the qualifications of its members.

The Individual Employer shall be the sole judge of the qualifications of all of their employees, and may on such grounds, discharge any of them. No employee shall be discharged without just cause. In the event of discharge without just cause, the employee shall, if he/she so desires, be reinstated with payment for time lost. In the event of a dispute, the existence of "just cause" shall be determined under the grievance procedure provided for in Section 9 hereof. In the event of reinstatement, the amount of back pay awarded under Section 9 hereof may not exceed 90 days unless the grievant was employed by the Individual Employer

who discharged him/her for more than 1500 hours in the two (2) years preceding the date of discharge.

D. The Individual Employer may notify the Local Union hiring hall of all employees who have quit, or been terminated or recalled during the week. Such notification may be on a written form which will include the following information:

NAME OF EMPLOYER COMPANY
NAME OF EMPLOYEE
DATE OF TERMINATION
DATE OF RECALL
REASON FOR TERMINATION

E. No employee may be transferred from an Individual Employer's payroll to another Individual Employer's payroll except in accordance with Subsection 3B, except any transfer to and/or from a joint venture of which the Individual Employer is a partner.

Section 4 - Show-Up Time

When any employee reports for work and there is no work provided by the Individual Employer, he/she shall be paid two (2) hours show-up time at the applicable rate plus subsistence where applicable, provided, however, no show-up time will be payable to any person who reports for work without the necessary and legally required documentation to establish work right status under applicable Immigration and Naturalization Laws. If work is suspended on account of weather conditions, the employee shall be entitled to show-up time only if he/she remains on the job site for two (2) hours pending abatement of such weather unless sent

home earlier by the Individual Employer. If work is to be suspended for any reason, the employee shall be notified at least two (2) hours before being required to report for work. The employee shall keep the Individual Employer informed at all times of his/ her correct address, and if he/she has a telephone, his/her telephone number. If an employee does not keep the Individual Employer so informed, the Individual Employer shall be relieved of the duty of giving such notice and further he/she shall not have to pay such employee show-up time. Radio and/or TV notice is acceptable on remote projects as means of notification providing the Union is notified in writing at the commencement of the job.

Section 5 – Higher Wages

No employee receiving a higher rate of pay shall suffer a reduction of pay by reason of the execution of this Agreement.

Section 6 – Lunch Time

No employee shall be required to work more than five (5) hours without time off for a meal period, which shall be not less than one-half (1/2) hour.

If Laborers are required to work continuously for more than five (5) hours without an opportunity for lunch, they shall receive overtime pay for work after the fifth (5th) hour until opportunity to take time for lunch is afforded. When opportunity for lunch is afforded, the employee shall be allowed thirty (30) minutes at his/her straight time rate to eat his/her lunch. Lunch periods at the option of the Individual Employer may be staggered any time after three and one-half (3 1/2) hours from the beginning of the shift. On a 4 x 10 work

week, staggered lunches begin no sooner than four and one-half (4 1/2) hours into the shift and no later than the sixth (6th) hour.

Any employee required to work more than two (2) hours overtime at the end of a shift shall be permitted a one-half (1/2) hour meal period for which he/she shall receive regular overtime pay. No work shall be performed by him/her during such meal period. (Meal periods may be staggered from the 10th to the 11th hour.)

Section 7 - Records

A. Each Individual Employer shall provide a proper means for registering the reporting, quitting time, and as supplied by the employee, the address and telephone number of all employees covered by this Agreement. In the event of a dispute, such records shall be accessible to the business representative of the Union or Local Union during working hours.

B. Each Individual Employer, upon request of any Trust Fund specified in this Agreement, shall permit a Trust Fund Auditor to review any and all records relevant to the enforcement of the provisions of this Agreement pertaining to the Trust Funds. Such review shall be permitted not less than ten (10) working days after demand.

C. Any Individual Employer who is found to be delinquent as a result of an audit will pay and satisfy such delinquency with accrued interest and in addition pay liquidated damages.

D. All delinquent contributions shall bear simple interest at a rate of one and one half percent (1.5%) per month until receipt of payment.

E. Subject to accounting verification liquidated damages

shall be assessed on delinquent contributions at a flat rate of one hundred and fifty (\$150.00) dollars per month to reflect the internal administrative costs incurred by the trust administrators in monitoring and tracking such late contributions.

F. The cost of any audit shall be borne by the Individual Employer if the delinquency disclosed by the audit is in excess of one thousand dollars (\$1,000.00) and is not the result of a clerical error.

G. When economic conditions warrant, the Trustees of the Trust Funds specified in this Agreement are authorized to amend the liquidated damages and interest provisions of this Agreement. Any adjustments implemented by the Trustees shall be reflective of true increases in the administrative and legal costs associated with the recovery of delinquent Trust Fund contributions.

Section 8 – No Cessation of Work

It is mutually agreed and understood that during the period when this Agreement is in force and effect, the Union or any Local Union will not authorize any strike, slow-down, or stoppage of work in any dispute, complaint, or grievance arising under the terms and conditions of this Agreement, except such disputes, complaints, or grievances as arise out of the failure or refusal of any Individual Employer to comply with the provisions of the hiring clause, Subsection 3A or B hereof, or as permitted under Subsection 28B and C hereof or whenever an Individual Employer pays Laborers improperly with checks which do not clear for collection. As to any Individual Employer who shall fail or refuse to comply with the provisions of the sections specified herein, so long as such failure or refusal continues it shall not be a violation of

this Agreement if the Union or any Local Union withdraws its members who are subject hereto from the performance of any work for such Individual Employer, and such withdrawal for such period shall not be a strike or work stoppage within the terms of this Agreement. In the event that any employees of any Individual Employer should be withdrawn by reason of any dispute, complaint, or grievance arising out of the violation of any similar hiring clause in any agreement between Employer and any other Union, then the Union or any Local Union may respect such withdrawal and for the period thereof may refuse to perform any work for such Individual Employer, and such refusal for such period shall not be a violation of this Agreement.

Any employees so withdrawn or refusing to perform any work as herein provided shall not lose their status as employees, but no such employee shall be entitled to claim or receive any wages or other compensation for any period during which he/she has been so withdrawn or refused to perform any work.

Section 9 – Grievance Procedure

Any dispute concerning the interpretation or application of this Agreement, other than a jurisdictional dispute or a dispute arising out of Subsection 3A or B, or a dispute arising out of Subsection 13C(4), or a dispute of Section 28 (Health & Welfare Plan, Pension/Annuity Plan, Vacation-Holiday Dues Supplement Plan, Training- Retraining/Apprenticeship Plan) which said sections and the Subsections thereof are specifically exempted by the provisions of this Section, the following procedure will apply:

(1) In the event that a dispute arises on a job, it shall be first

reported to the Individual Employer and/or the Business Agent of the appropriate Local Union who shall then attempt to adjust said grievance or dispute at the job site level.

(2) The grieving parties shall specify the date(s) of the alleged violations(s) and the provision(s) of the Agreement applicable to the dispute.

(3) If said grievance or dispute is not satisfactorily adjusted by the appropriate Local Union or otherwise authorized Union Representative and the Individual Employer or his/her representative within three (3) days after submission to the Individual Employer, the matter may be submitted by either party to a permanent Board of Adjustment created for the settlement of such disputes.

(4) The Board of Adjustment shall be composed of two (2) members named by the Union, two (2) members named by the Association and an Impartial Arbitrator. At any point in the proceedings, should the panel be unable to reach a majority vote, the Arbitrator shall participate and his decision shall be final and binding.

(5) In addition to any rules or procedures which the panel may adopt, the Board of Adjustment shall be governed by the following provisions:

(a) No attorneys shall be utilized unless either party advises the other of its intent to do so within a reasonable time in advance of the hearing.

(b) No briefs shall be submitted nor a transcript made of the hearing except by mutual agreement of the parties or by direction of the Arbitrator.

(c) In the case of a deadlock, the Arbitrator shall render his decision upon the conclusion of the case at the Board of Adjustment hearing unless the time is extended by mutual

agreement of the parties or at the request of the Arbitrator, in which case the Arbitrator shall render a decision not later than thirty (30) days after submission. The Arbitrator shall not render an expanded opinion in any case unless requested by the parties.

(d) The parties shall select and utilize one (1) permanent impartial arbitrator who is willing to abide by the procedure set forth herein. The impartial arbitrator may be changed or replaced at the request of either party.

(6) The Board of Adjustment shall meet not less than once each calendar month with the exception of the discharge cases which must be heard at the earliest possible date not to exceed fifteen (15) working days. Failure of either party to meet or participate in the procedure shall relieve the charging party of further compliance with the grievance procedure.

(7) Decisions of the Board of Adjustment or an Impartial Arbitrator shall be within the scope and terms of the Agreement, and shall be final and binding upon all parties hereto.

(8) In the event an Individual Employer fails to comply with any such decisions, the Union may withdraw employee or strike the Individual Employer and such action shall not be a violation of this Agreement so long as such noncompliance continues.

(9) The expenses of the Joint Adjustment Board and the Impartial Arbitrator, including the cost of a court reporter, shall be borne by the Contract Administration Fund.

(10) No proceedings hereunder based on any dispute, complaint or grievance herein provided for, shall be recognized unless the grievance procedure steps outlined above have been followed. The Board of Adjustment may, by majorit

vote, for good cause, accept a late submission.

(11) The Board of Adjustment shall establish regular meeting dates and administer grievances filed in conjunction with this Section as set forth in the rules and procedures which may be amended from time to time by the parties.

(12) A decision of the Board of Adjustment by majority vote, or the decision of a permanent arbitrator shall be enforceable by a petition to confirm an arbitration award filed in the Superior Court of the City and County of San Francisco, State of California.

(13) All hearings of the Board of Adjustment shall be in the County of Contra Costa and/or County of Alameda, unless mutually agreed to move to another location.

(14) No proceedings hereunder based on any dispute, complaint, or grievance herein provided for shall be recognized unless adequate notice was given to the Employer and/or Union or Local Union within ten days after the alleged violation was committed.

(15) In the case of discharge, the Board shall meet within fifteen (15) working days. The Board of Adjustment or Arbitrator shall be free to sustain the discharge or to find discipline other than discharge to be appropriate and may order reinstatement with full or partial back pay as he or it deems appropriate provided there shall be no discrimination on the part of the Individual Employer against any employee for activities in behalf of, or representation of the Union not interfering with the proper performance of his/her duties.

(16) If failure of a Board of Adjustment to meet on a discharge case within fifteen (15) working days is due to the unavailability of the Union, the wage payment and Trust Fund contribution liability shall be limited to the above fifteen

(15) working days. If the Employer or Individual Employer is unavailable to meet the wage payment and Trust Fund contribution, liability shall be continuing.

(17) The Board of Adjustment shall settle any dispute or grievance involving a subcontractor as defined in Section 11 who has agreed under contract with the Employer, or any Individual Employer, or a subcontractor of the Employer, or any Individual Employer to perform on the job site any part or portion of the construction work covered by the prime contract, including the operation of equipment, performance of labor and installation of materials.

(a) When liabilities are assessed against a subcontractor for hiring violations as a result of a Board of Adjustment held under the provisions of Paragraph 17, and said subcontractor fails to satisfy said obligations, the Union shall promptly give written notice to the Individual Employer and subcontractor and the Individual Employer shall pay such obligations from the retention of such subcontractor.

(18) The procedures specified herein shall be applicable to any Individual Employer whether or not he or she is a member of Employer or any other associations.

(19) In those instances where the Individual Employer is not a member of the Employer, the Joint Adjustment Board shall establish procedures whereby the Employer members of the Joint Adjustment Board may consist of one Individual Employer who is not a member of the Employer.

Section 9A – Contract Administration

A trust fund entitled "The Contract Administration Trust Fund" shall be used to provide compensation to the Employer for negotiations and administration of the provisions of this

Agreement, including Section 9, for the Industry. Effective June 24, 2002, each signatory employer shall contribute the sum of six cents (\$.06) per hour worked or paid for to the Contract Administration Trust Fund. At the discretion of the Trustees of said Trust, contributions to the Contract Administration Trust Fund may be increased up to an additional four (\$.04) cents per hour during the term of this Agreement. Such increase or increases are to be effective on such dates as determined by the Trustees. The contribution into a contract administration trust fund shall not exceed ten cents (\$.10) per hour for each hour paid for or worked. The Trust Fund shall be administered solely by Trustees selected by the Employer in accordance with a trust agreement to be executed by the Employer. The contribution as described above shall commence with the work month following notice by the Laborers Northern California Trust Fund Corporation to the Individual Employers. The Union shall have the right, not more than one (1) time per year, to independently audit the Trust Fund.

Section 9B – Industry Stabilization Fund

The Individual Employer shall contribute eleven cents (\$.11) per hour for each hour paid for or worked by workers in work covered by this Agreement to the Industry Stabilization Fund. Of the \$.11 per hour, two cents (\$.02) per hour is earmarked for California Alliance for Jobs and one cent (\$.01) per hour is earmarked for the Construction Industry Force Account Council (CIFAC).

The purpose of such funds shall be to enhance the monitoring of public works projects relative to Employer compliance with State, Federal or other public agencies public

works wage and hour laws. Such contributions shall continue until written notice by the parties signatory hereto. Such trust fund shall be administered jointly by the signatory parties.

Section 10 – Payment of Wages

A. Each employee shall be paid wages in full each week before or at quitting time on the Individual Employer's regular pay day unless specific arrangements to the contrary are made in writing between the Individual Employer and appropriate Local Union of the Union. Employees who quit or are laid off or discharged shall be paid in accordance with the laws of the State of California.

B. Each employee shall be given a statement with the Individual Employer's name and address, itemizing the employee's gross amount earned, hours worked, Social Security tax, withholding tax and all other deductions, also a statement of hours applicable to Health and Welfare, Pension/Annuity, Vacation-Holiday-Dues Supplement and Training-Retraining/Apprenticeship Plans.

Section 11 – Subcontractors

The terms and conditions of this Agreement insofar as it affects Employer and the Individual Employer shall apply equally to any subcontractor of any tier under the control of, or working under oral or written contract with such Individual Employer on any work covered by this Agreement to be performed at the job site or job yard, and said subcontractor with respect to such work shall be considered the same as an Individual Employer covered hereby. Subject to the provisions of this Section and any other Section of this

Agreement applicable to subcontractors, if an Individual Employer shall subcontract work herein defined, such subcontract shall state that such subcontractor agrees to be bound by and comply with the terms and provisions of this Agreement. A subcontractor is defined as any person, firm or corporation who agrees under contract with the Employer, or any Individual Employer, or a subcontractor of the Employer, or any Individual Employer to perform on the job site any part or portion of the construction work covered by the prime contract, including the operation of equipment performance of labor and installation of materials. The Individual Employer has the primary obligation for performance of all conditions of this Agreement. This obligation cannot be relieved, evaded or diminished by subcontracting. Should the Individual Employer elect to subcontract, the Individual Employer shall continue to have such primary obligation. Said primary obligation shall be deemed conclusive evidence of the Union's majority status for the purpose of establishing the obligation of the Individual Employer to bargain collectively pursuant to Section 8(A)(5) of the National Labor Relations Act as amended with the Union upon expiration of this Agreement, but for no other purpose, statute or law.

An Individual Employer who provides in the subcontract that the subcontractor will pay the wages and benefits and will observe the hours and all other terms and conditions of this Agreement shall not be liable for any delinquency by such subcontractor in the payment of any wages or fringe benefits provided herein, including payments required by Section 28 (Health and Welfare, Pension/Annuity, Vacation-Holiday-Dues Supplement and Training-Retraining/Apprenticeship Funds), except as follows:

The Individual Employer will give written notice to the Union of any subcontract involving the performance of work covered by this Agreement within five (5) days of entering such subcontract, and shall specify the name and address of the subcontractor. Written notice at a pre-job conference shall be deemed written notice under this provision for those subcontractors listed at the pre-job only. Notification to the Union of any subcontractor not listed in writing at the pre-job must still be given in accordance with this paragraph.

If thereafter such subcontractor shall become delinquent in the payment of any wages or benefits as above specified, the Union shall promptly give written notice thereof to the Individual Employer and to the subcontractor specifying the nature and amount of such delinquency.

If such notice is given, the Individual Employer shall pay and satisfy only the amount of any such delinquency by such subcontractor occurring within seventy-five (75) days prior to the receipt of said notice from the Union, and said Individual Employer may withhold the amount claimed to be delinquent out of the sums due and owing by the Individual Employer to such contractor.

In the event the Individual Employer fails to give written notice of a subcontract as required herein such Individual Employer shall be liable for all delinquencies of the subcontractor on that job or project without limitation.

The Individual Employer shall not be liable for any such delinquency if the Local Union where the delinquency occurs refers any employee to such subcontractor after giving such notice and during the continuance of such delinquency. The provisions of this Section 11 shall be applied only to the extent permitted by law and, notwithstanding any other provision

sion of this Agreement, no aspect of the subcontractors' ause, including its enforcement, may be enforced by or sub-
ct to strike action.

ection 12 – Conflicting Contracts

Any oral or written agreement between Employer or any dvidual Employer and an individual employee, which conflicts or is inconsistent with this Agreement, or any supplemental agreements hereto, disestablishes or tends to disestablish relationship of Employer and employee, or establishes a lationship other than that of Employer and employee, shall forthwith terminate. No oral or written agreement which nflicts or is inconsistent with this Agreement, or any supplemental agreements thereto, shall hereafter be entered into / and between Employer, or an Individual Employer, and ny individual employee performing work covered by this greement. Any practice of the Employer or Individual mpoyer contrary to this Agreement shall forthwith termi-nate. Any such future practice shall not be binding on the nion or effect the interpretation of this Agreement unless ecifically authorized by the Union in writing.

ection 13A – Elimination of Restrictions on Production

No rules, customs or practices shall be permitted that limit roduction or increase the time required to do any work. here shall be no limitation or restriction of the use of achinery tools or other labor-saving devices.

The Union and Employer recognize that Drug/Alcohol use by employees shall not be tolerated for safety reasons. The Union agrees to cooperate with Employer and

Individual Employer in establishing drug and alcohol abuse policies to the extent legally possible.

Management Rights Regarding Substance Abuse:

Notwithstanding any other provisions of this agreement, the Employer expressly reserves the right, in its discretion, to undertake the following measures:

(a) In the sole discretion of the employer, requiring covered employees to submit to physical examination by competent medical personnel to determine whether there is a probability that the employee is suffering from any physical impairment which might cause the employee to be a safety hazard to him/herself or others, or which might cause the employee to be unable to perform assigned tasks within the coverage of this agreement in a prompt and competent manner. Such tests may include, in the discretion of the employer, such tests of the employee's bodily fluids as the employer may reasonably believe will elicit evidence of the employee's use of substances which are reasonably likely to alter or impair the employee's ability to perform his/her duties in a prompt, competent and safe manner.

(b) Implementation of rules regarding the discipline and/or discharge of any employees that the employer determines, as a result of the tests described in subparagraph (a), are reasonably likely to become voluntarily impaired or disabled from the safe performance of their work tasks as a result of the ingestion of alcohol or performance-impairing drugs.

(c) An Individual Employer may initiate unannounced random testing, a selection process where affected Employees are selected for testing and each Employee has an equal chance of being selected for testing. If an Individual Employer initiates such testing, all Employees shall be sub-

jected to such testing. The Employee may establish two random testing pools, one for DOT regulated Employees and one for all others. An Individual Employer who initiates random testing shall specifically state in its notice to the Union and its notice to Employees that Employees will be subject to random testing. The Individual Employer shall give thirty (30) days notice to the Union and Employees prior to implementing a random drug testing program.

(d) Implementation of a voluntary employee assistance program, to provide counseling, therapy and monitoring of those employees who request employer assistance in controlling and overcoming problems related to the use of drugs and alcohol.

Disputes arising from the implementation of the provisions of this Paragraph shall be subject to the grievance procedures set forth in Section 9 of this Agreement.

B. Protective Clothing

The Individual Employer shall furnish the necessary goggles, hard hats or other protective clothing. Laborers working in rain, snow or sleet shall be furnished with waterproof clothing. Laborers working in gunite or handling concrete and/or cement shall be furnished rubber boots and gloves. Laborers working in mud or water shall be furnished boots. Such equipment shall be furnished by the Individual Employer free of charge and returned by the employee in the same condition as received subject to reasonable wear and tear. Such equipment shall be sanitized before reissue.

C. Safety

(1) The Union shall cooperate with the Individual

Employer and with each employee in carrying out all pertinent rules and regulations dealing with health, safety and welfare of employees promulgated by the Department of Industrial Relations of the State of California. All employees shall perform their duties in each operation in such manner as to promote safe and efficient operations of each particular duty and of any job as a whole.

(2) All State and/or Federal and/or Local Safety Laws, Standards, Rules and Regulations shall be applicable to all work covered by this Agreement. The Individual Employer is solely responsible for implementing and maintaining such Laws, Standards, Rules and Regulations. Neither the Union nor any Local Union is responsible for implementing or maintaining such Laws, Standards, Rules or Regulations.

(3) Adequate first-aid equipment shall be maintained and provision shall be made for the safety of employees covered by this Agreement on each job by each Individual Employer. Each Individual Employer shall arrange for adequate and prompt transportation to a hospital or doctor for any employee who is injured on the job and may require doctor's care or hospitalization or both. Each Individual Employer must post the name and address of its doctor and of the Worker Compensation Insurance carrier on the job site.

(4) No employee shall be discharged for refusing to work under conditions injurious to his health or safety as determined under any rule or regulation of the United States or State of California or any political subdivision. Such determination shall be made by a responsible agent of the State of California or OSHA or any of its political subdivisions, or by a safety inspector from the applicable insurance carrier.

(5) When drilling holes in rock or other dust produc-

material with air or power controlled drilling equipment (excluding jack hammer), dust shall be controlled by water, chemical or other suitable means within the maximum acceptable concentration as set forth in the California or OSHA Construction Safety Orders.

(6) Should the Employer or Individual Employer desire a change in variance in the California or OSHA Construction or any applicable Safety Orders, they will notify the Union in writing not less than thirty (30) days prior to making a request for such change.

(7) Manhaul trucks regularly used for personnel transport but not designed for this purpose, shall be provided with safe seating and side and end protection to prevent falls. Some convenient means of mounting and dismounting the truck shall be provided. Adequate protection shall be provided during inclement weather. A bell or other means of communication with the driver shall be installed.

(8) Employees who as a direct result of an on-the-job industrial injury are unable to complete a full day of work shall nevertheless be paid for the full day on which such injury occurred; provided, however, that said injury requires the attention of a licensed physician.

(9) The Local Union with area jurisdiction shall be notified within one day (twenty-four hours) of any industrial injury which results in death or requires hospitalization.

Section 14A – Additional Work or Classifications

This Agreement shall not prevent the Employer from negotiating or making agreements with the Union for any work or classification not covered by this Agreement.

Whenever any work covered by this Agreement is to be eliminated or modified by the introduction of any new machine, mechanized process, new or different material, or new or different method or technology with respect to the performance of such work, persons employed under this Agreement and subject thereto, will be given preference for employment and will be assigned such work where it is not in conflict with International jurisdictional agreements with respect to such new machine, mechanized process, new or different material, or new or different method or technology and the use of any such new machine, mechanized process, new or different material, or new or different method or technology shall be subject to and covered by this Agreement regardless of the nature, size or characteristics of such new machine, mechanized process, new or different material or new different method or technology.

It is not the intent of the parties to provide work where no job exists.

Section 14B - Jurisdictional Disputes

There shall be no cessation or interference in any way with any work of the Employer or any Individual Employer by reason of jurisdictional disputes between the Union and another Union affiliated with the AFL-CIO or the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers of America with respect to jurisdiction over any of the work covered by this Agreement. Such disputes will be settled by the Unions, themselves, or submitted to the International Presidents of the Union involved in the dispute for determination. Until such determination is made and confirmed by the disputing Unions, the work shall proceed as